Supreme Court, U.S.
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No.

In the

Supreme Court of the United States

$242,484.00, Petitioner

v.

United States of America, Respondent

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Louis Casuso, Esq.
Counsel of Record
Law Offices of
Louis Casuso
111 NE 1 Street, Suite 603
Miami, FL 33132
Tel. (305) 374-1500

QUESTIONS PRESENTED

1. Whether Petitioner's Fifth Amendment Due Process Rights were violated when the District Court affirmed the judgment of forfeiture, pursuant to 21 U.S.C. § 881 (a)(6), where the United States of America failed to present sufficient evidence to establish probable cause that the money seized was connected to narcotic transactions.

2. Whether the decision of the Eleventh Circuit Court of Appeals in this case, conflicts in whole or in part with the decisions of other United States Court of Appeals, thus requiring this Court to exercise its supervisory powers.

PARTIES TO THE PROCEEDING

In addition to the parties named in the caption, Deborah Stanford, individually and as President, Director, and Stockholder of Mike's Import & Exports, U.S.A., Inc., a Florida corporation, was the Claimant before the Court of Appeals and is a Claimant in this Petition. There are no parent or publicly held company that own 10% or more of the corporate stock of Mike's Import & Export, U.S.A., Inc.

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JURISDICTION

The District Court entered a forfeiture judgment in favor of the United States of America. The Claimant then filed a notice of appeal. A panel of the Eleventh Circuit Court of Appeals issued an opinion reversing the District Court forfeiture judgment on January 22, 2003. United States v. $242,484.00, 318 F.3d 1240 (11th Cir. 2003). A timely application for rehearing was submitted by the United States of America. On March 14, 2003 the Eleventh Circuit Court of Appeal entered an order staying the January 22, 2003 opinion and also granting the United States' requests for a rehearing. On June 30, 2003, the panel denied the United States of America's petition for rehearing but withdrew the opinion of January 22, 2003 and issued a new opinion in favor of the Claimant. United States v. $242,484.00, 351 F.3d 499 (11th Cir. 2003). Thereafter, on November 20, 2003 the Eleventh Circuit denied the petition for rehearing filed by the United States of America and substituted its opinion with its previous withdrawn opinion in favor of the Claimant. Thereafter, on January 23, 2004 the majority of the judges of the Eleventh Circuit Court of Appeals vacated the previously entered panel opinion and voted in favor of a rehearing in banc. United States v. $242,484.00, 357 F.3d 1225 (11th Cir. 2004). On November 2, 2004, the Eleventh Circuit Court of Appeal issued an in banc ruling in favor of the United States of America and remanded the case to the original appellate panel to determine whether there had been a Fourth Amendment violation. The final judgment of the *en* banc ruling was issued on December 2, 2004. Thereafter, on April 18, 2005, the appellate court affirmed the District Court's decision finding that there was no Fourth Amendment violation. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254 (1).

CONSTITUTIONAL PROVISION INVOLVED

The Fifth Amendment of the United States Constitution provides that in relevant part: "...nor shall any person ...be deprived of life, liberty, or property, without due process of law..."

STATUTORY PROVISION INVOLVED

The relevant provision of 21 U.S.C. § 881(a)(6) that provides that: a) The following shall be subject to forfeiture to the United States and no property right shall exist in them: (6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

STATEMENT

On December 10, 1998, the Claimant flew from Miami to New York City on a round-trip ticket for which she had paid $93 in cash on December 8, 1998. The ticket she purchased had her returning to Miami on December 12, 1998 but she was a no-show for the return flight. Later that day, the Claimant called and rescheduled her flight for the next day, December 13, 1998 but she did not make that flight either. The Claimant changed her flight plans one

more time and eventually made it to the airport to catch a flight departing from New York's John F. Kennedy Airport on the morning of December 14, 1998.

At the airport in New York, the Claimant put the backpack she was carrying through the X-ray machine. When the security workers manning the machine questioned her about the contents of the two packages in her backpack, the Claimant became belligerent. The Claimant removed the packages from the backpack and showed the security workers that the two packages were filled with currency. The airport workers allowed the Claimant to carry the backpack and its contents on board her flight to Miami.

After the Claimant boarded the plane, a security worker in New York approached Drug Enforcement Agent Bradley Cheek, a member of the airport's drug interdiction unit, and told him what had happened. Agent Cheek called DEA Special Agent Kenneth Miles at the Miami International Airport and informed him about the incident. Agent Cheek also gave Claimant's description to Agent Miles and told him that she was carrying two packages containing a large amounts of cash in a carry-on bag. Agent Miles, Special Agent John Eric Johnson, and three or four others agents went to the gate where Claimant's flight was to arrive.

After the Claimant exited the airplane in Miami, Agents Miles and Johnson were able to recognize the Claimant from Agent Cheek's description. They approached her, showed her their DEA credentials, and asked to speak with her. After the Claimant consented, the agents asked to see her plane ticket and driver's license, and she complied. The name that appeared on the airline ticket was Claimant's real name, Deborah Stanford. The name that appeared in the valid Florida driver's license produced by the Claimant, was also Deborah Sanford.

Agent Miles then asked the Claimant if she was carrying any contraband, weapons, or large sums of currency. The Claimant responded that she was carrying money. The agent then asked her how much money, and the Claimant told him "about two." When asked "two what?," The Claimant answered "about two hundred thousand." The agent asked her where she was carrying the money, and Claimant pointed to her backpack. The agent asked to see the money, and the claimant consented.

Inside Claimant's backpack the agents found two large packages full of currency in bundles. One of the packages was wrapped in brown paper wrapping and overlaid with black plastic wrap, cellophane wrap. The other package contained bundles of cash wrapped in plastic cellophane in a Christmas shopping bag. All of the currency was sealed in a cellophane-type material. The cash was bundled together with rubber bands, in non-uniform bundles in various denominations, without any bank wrappers. There were 18,362 bills, and they weighed a total of 40.5 pounds.

After initially telling the agents there was about $200,000 in cash, and then denying that she knew exactly how much there was, the Claimant told the agents that the black-plastic wrapped package contained $79,900.00, and the Christmas bag wrapped package contained $162,750.00, for a total of $242,650.00. After the money was counted, the agents determined that the actual amount of money in the two packages was $242,484.00.

The agents then questioned the Claimant about how she came to have nearly a quarter of a million dollars in cash in the backpack she was carrying. The Claimant first told the agents that the reason she had gone to New York City was unrelated to the $242,484.00 in cash. The Claimant insisted that the only reason she had gone to New York was because of a court case relating to a traffic accident, which had occurred ten years earlier. She never produced any

documents relating to the court case.

According to the Claimant, after she had arrived in New York for the traffic accident case, her brother called her and told her to pick up some money for him on behalf of their business, Mike's Import and Export, U.S.A., Inc. She told the agents that her brother asked her to pick up the cash from "some people" and bring it back to him in Miami. Agent Miles asked her several times who the people were, and the Claimant responded, "some people" and "I don't know, just some people." The Claimant said that she did not know their names.

In addition, the Claimant was not able to tell the agents the place where she had met them to receive the money. She claimed that her brother had told her where to go, given her directions, and told her that the people would get in touch with her. When asked how she would have known whom the people were when she went to meet them, the Claimant responded, "They would know." The Claimant did not produce to the agents any documentation, in the form of receipts or otherwise, evidencing the transfer of the $242,484.00 in cash to her from "some people" whose identities she did not know.

Agent Miles also asked the Claimant where she had stayed during her four nights in New York, but she claimed that she did not know. During the course of the interview, Agents Miles took from the Claimant an envelope on which was written the name of the Newton Hotel in New York City, a phone number, and what appeared to be a room number. Agent Miles testified that he called the hotel and also subpoena the hotel records. The records revealed that no one by the name of Deborah Stanford had stayed there during the time in question.

During the interview, the Claimant also told the agents that she was the president of "Mike's Import and Export," the business for which she was carrying the cash. One of

the agents ran "Mike's Import and Export" through the DEA's Narcotics and Dangerous Drug Information System ("NADDIS"). It scored a "hit" for "Mike's Import and Export NV," and showed aliases for this company including "Mike's Electronics Import and Export" and "Mike's Import Export," with a business address in Opa Locka, Florida. The database reports on the business stated: "Possible utilized for money laundering." The report had two dates listing the business as being involved in money laundering. The Claimant told the agents that it was common for her to carry large sums of money for her business, but she said that usually the money was wired to its bank.

While they were interviewing the Claimant, the agents sent for Rambo, a narcotics-detecting dog. Rambo graduated from the United States Canine Academy and Police Dog Training Center, earned certification from the National Narcotics Detector Dog Association, and has an enviable rating. One of Rambo's trainers testified that Rambo's "proficiency record would show that he's very well certified in the community," and added that Rambo was probably one of the best dogs he had trained in the 23 years he had been doing it. Rambo's field of specialty is detecting cocaine, marijuana, heroin, and methamphetanine. Not being a "cash hound," Rambo does not alert to the scent of untainted currency, but only to the scent of one of those four drugs. The backpack with the money was placed with four or five other bags while Rambo and his handler were out of the room. Rambo was brought in, and alerted to Claimant's backpack.

During trial, Agent Miles also testified that the Claimant changed stories after he asked her more questions about the 10-year-old court case that she had in New York. According to Agent Miles, the Claimant told him that she had gone to New York for the specific purpose of picking